

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 1ST MARCH 2007 / 10TH PHALGUNA 1928

Crl.MC.No. 2155 of 2006()

CC.553/2005 of JUDL.MAGISTRATE OF FIRST CLASS, SULTHANBATHERY

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PETITIONER: 5TH ACCUSED

K.P.SURENDRAN, S/O.KUTTY,
ANUGRAHA NIVAS, MEENAGADI, WAYANAD.

BY ADV. SRI.C.HARIKUMAR
SRI.VIZZY GEORGE KOKKAT
SRI.ARAVINDA KUMAR BABU T.K.
SRI.RAVIDASAN.N.S.

RESPONDENTS: COMPLAINANT

STATE OF KERALA REP.BY
PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 01/03/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

CrI.M.C. NO. 2155 OF 2006

Dated this the 1st day of March, 2007

JUDGMENT

The petitioner is the 5th accused. On the basis of a crime registered, investigation was conducted by the Investigating Officer. The crux of the allegation is that the accused persons had caused obstruction to C.Ws.1 to 6, who are employees at the Sub Treasury, Sulthan Bathery, from 9.30 a.m. on 2/9/02 till 5 p.m. on that day. In the First Information Statement recorded, on the basis of which the F.I.R. was registered, no specific allegation whatsoever is raised against the petitioner herein. The petitioner was not available for trial. The case against him was hence split up. All other accused faced trial. They were found not guilty and acquitted by the learned Magistrate.

2. The petitioner has now come to this Court with a prayer that the prosecution against him may be quashed. The learned counsel for the petitioner is not relying on the acquittal of the co-accused by the learned Magistrate in the

trial which was held against them as a ground to quash the proceedings against him. But the learned counsel for the petitioner submits that there is absolutely no semblance of any allegation even, against the petitioner made by the Investigating Officer. Except oral evidence based on the allegation made that a group of persons were responsible for the commission of the crime, there is absolutely no specific statement of any witness that the petitioner was involved in the alleged offence committed.

3. As per the order dated 30/1/07, it was directed that the Investigating Officer must specify the materials which are relied on by the prosecution to support the allegations against the petitioner. The learned Public Prosecutor today, after taking instructions, submits that the entire Case Diary does not reveal how the petitioner can be alleged to be one of the miscreants who had allegedly indulged in the crime. The learned Public Prosecutor concedes that the Case Diary does not reveal the identification of the petitioner by any witness as one of those involved in the crime. The learned Public Prosecutor submits that, in these circumstances, it is impossible to resist the prayer of the petitioner for quashing of

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the proceedings.

4. Inasmuch as there is no specific allegation even, of any involvement of the petitioner in the commission of the crime and inasmuch as no semblance of any material is admittedly available against the petitioner, I am satisfied that this is a fit case where the powers under Sec.482 of the Cr.P.C. can be invoked and the proceedings against the petitioner can be brought to premature termination.

5. In the result:

(i) This Crl.M.C. is allowed.

(ii) C.C.No.553/05 pending before the Judicial First Class Magistrate's Court-I, Sulthan Bathery against the petitioner is hereby quashed.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge